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C O N F I D E N T I A L SECTION 01 OF 02 KYIV 001920

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TAGS: [EFin](#) [EREL](#) [ETRD](#) [PGOV](#) [PINR](#) [UP](#) [XH](#)

SUBJECT: UKRAINE BUDGET MEASURE: A DARKER SHADE OF RED

REF: A. KYIV 1916  
[B.](#) KYIV 1878  
[C.](#) KYIV 1835

Classified By: Economic Counselor Edward Kaska for Reasons 1.4 (b) and (d)

[¶1.](#) (SBU) Summary. The Rada (Ukraine's parliament) adopted amendments to the 2009 budget that will allow implementation of the so-called social standards law. The move is likely to further destabilize Ukraine's partnership with the IMF, whose mission team had walked away from Kyiv in October, demanding that the law's increases for pension and wage increases not go forward. Prime Minister Tymoshenko's BYuT faction abstained from voting on the budget amendment. Her government will now face severe difficulties avoiding the new spending obligations. Ukraine's growing budget deficit will not get much help from special IMF SDR allocations, already allotted to cover gas purchases from Russia during the balance of 2009. End summary.

BUDGET AMENDMENT PASSES, NEW GOU LIABILITY

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[¶2.](#) (SBU) The Rada adopted a budget amendment on November 6 that will allow for key elements of the so-called social standards law to take effect (Ref C). The budget amendment served to raise Ukraine's subsistence minimum, thereby increasing minimum pension allotments and assistance payments. The amendment did not include provisions for increasing public sector wages as envisioned in the social standards law. Support for the budget amendment was consistent with previous voting on the social standards law (Party of Regions -- 169, BYuT -- 0, OU/PSD -- 33, CPU -- 25, Lytvyn Bloc -- 19, Non-Affiliated -- 0).

[¶3.](#) (SBU) The total cost to the 2009 budget envisioned by the law's sponsors is UAH 817 million (\$100 million), though this estimation was a last minute downward revision made without clarification. A previous, also hastily made cost estimation suggested the law would total UAH 1.2 billion (\$146 million), including UAH 1.1 billion in new pension transfers and UAH 100 million for additional assistance payments to the poor and disabled.

[¶4.](#) (SBU) Parliament Speaker Volodymyr Lytvyn was out of the Rada when the budget amendment proposal came up for a floor vote, apparently because he was meeting with visiting Belarus President Aleksandr Lukashenko. In his absence, Deputy Speaker Oleksandr Lavronovych (Party of Regions) took up the gavel and allowed the budget amendment to be considered by the floor in one vote without Rada budget committee approval. Because the Rada budget committee never voted to bring the budget amendment to the floor, BYuT deputy Oleh Lyashko was

moved to claim that the amendment should not be considered valid.

¶ 15. (SBU) Yushchenko had submitted the amendment to the Rada budget committee earlier this week. His justification for how the social spending law would be funded was based on unused allocations for domestic debt payments, totalling roughly UAH 3.3 billion (\$400 million). According to Yushchenko, Ukraine cancelled plans to issue certain short-term debt after it received IMF budget support.

¶ 16. (SBU) Although Party of Regions' deputies ultimately voted in favor of the budget amendment, some analysts believed a split had emerged in POR on this issue, with the pro-business wing suggesting the social spending increases would be bad for their interests and the economy as a whole. Shadow economy minister Iryna Akimova had even told one of our contacts last week that she opposed the social spending legislation.

¶ 17. (SBU) Prior to the budget amendment vote, Tymoshenko stated repeatedly that she opposed the social spending law, suggesting it would ruin the economy. Her BYuT faction maintained strong voting discipline on the issue, again falling in line behind the Prime Minister on the November 6 vote.

LITTLE RE COURSE FOR THE PM

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¶ 18. (SBU) The social spending legislation can now legally take effect, as the minimum subsistence level has been reset

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by an amendment to the budget law. Tymoshenko's primary avenue for blocking the budget amendment (and thus the social spending legislation) is gone, since the Rada budget committee was bypassed and her faction did not protest the vote on the Rada floor by blocking the rostrum.

¶ 19. (SBU) The budget amendment is now awaiting the President's signature. There is no pocket veto in Ukraine. The only way to block this would be for the President to expressly veto his own budget amendment.

¶ 110. (SBU) Even if Tymoshenko were to try to block the law by legal means, such as through a Constitutional Court hearing or an injunction, it is unclear whether such an action would bear fruit. If the Constitutional Court took up the case, most analysts believe it would almost certainly rule in favor of implementation. An appeal to the Court could take up to four months, however, with one month (maximum) for the Court to decide whether it would hear the case and three months (maximum) for a decision to be made.

¶ 111. (SBU) In the meantime, even if an appeal were to be filed with the Constitutional Court, the social spending law would still take effect. Tymoshenko could seek a temporary injunction, but it is unclear which lower court would have jurisdiction over such a matter. (Note: Competing jurisdictional primacy is a wholesale problem throughout the country's legal system. End note.)

¶ 112. (SBU) Up until the vote in the Rada on November 6, Tymoshenko could have admitted that 2009 budget targets had not been met (i.e. that revenues had fallen behind expenditures), something she has not yet done publicly. By making such a public statement, she would have taken away the President's argument that there was money available for the social spending law and a revised budget.

¶ 113. (SBU) Tymoshenko could still decide to underfund articles in the amended budget that relate to pensions and assistance transfers. She would need to instruct the state treasury not to pay any budget increases, but this would lead to wage and pension arrears that the GOU would ultimately be

legally obliged to pay.

IMF SDR ALLOCATION -- ONLY ENOUGH FOR GAS

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¶14. (SBU) Tymoshenko will not be able to count on the IMF SDR allocation (Ref A) for her now growing budget deficit. Most observers speculate that Ukraine's October-December gas purchases from Russia will equal short of \$2 billion, nearly the amount available to Ukraine through the SDR program.

¶15. (U) According to his official website, President Yushchenko told European Commission President Barroso over the phone that he had instructed the National Bank of Ukraine (NBU) to cooperate with the IMF on the transfer of SDR funds to the GOU treasury. As the government's banker, the NBU would act to transfer the money from the treasury, likely to a state-owned bank such as Oshchadbank or UkrExIm, which would then lend to Naftohaz.

COMMENT

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¶16. (C) Out of money for her budget, and with a new spending obligation that the IMF staunchly opposes (Ref B), Tymoshenko's back is against the wall. The Prime Minister will likely attempt to file an injunction against the budget amendment or the social standards law itself, while simultaneously appealing to the Constitutional Court. A zealous approach of this kind would be risky in the run up to the presidential election, as Regions already stands to capitalize from BYuT's opposition to the spending increase.

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